

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

DONATO APONTE NAVEDO, BELKIS ISABEL SANTIAGO MARTÍNEZ, AND THEIR COMMUNITY OF ASSETS AND GAINS,

Plaintiffs,

v.

NALCO CHEMICAL COMPANY, JOSÉ SERRANO AND HIS WIFE JANE DOE (1), AND THEIR COMMUNITY OF ASSETS AND GAINS, JORGE CASTILLO AND HIS WIFE JANE DOE (2), AND THEIR COMMUNITY OF ASSETS AND GAINS, ASHOK PAUL DUGGAL AND HIS WIFE JANE DOE (3), AND THEIR COMMUNITY OF ASSETS AND GAINS AND ABC INSURANCE,

Defendants.

Case No. 09-cv-01232-JA

Magistrate Judge Justo Arenas

**DEFENDANTS' MOTION TO CONTINUE TRIAL DATE
AND TRIAL-RELATED DEADLINES**

Defendants Nalco Chemical Company (“Nalco”) and Ashok Paul Duggal (“Duggal”) (collectively “Defendants”), by and through their attorneys, respectfully request that the Court continue and reset the trial date, currently set for November 15, 2010, and the other trial-related deadlines. In support of their motion, Defendants state as follows:

1. At the most recent status hearing, held on July 21, 2010, the Court ordered that any Motions for Summary Judgment were to be filed by October 18, 2010. The Court also set a trial date of November 15, 2010. (Docket No. 64).
2. Although the parties have engaged in substantial discovery to date, discovery is not complete and this case is therefore not ready for trial. Specifically, although the parties have exchanged interrogatories and document requests and each side has produced documents and

other materials, the parties are in need of additional time to complete oral and third party discovery on this matter.

3. The parties have scheduled Plaintiff's deposition for October 12, 2010. The deposition of Plaintiff's former wife, Belkis Santiago, is scheduled for October 13, 2010. In addition, the deposition of Plaintiff's economic expert, Dr. Leroy Lopez, is scheduled for October 14, 2010. The parties are also working diligently to schedule the depositions of co-defendant Ashok Paul Duggal and Plaintiff's psychological expert, Dr. Franceschini. Given these individuals' schedules and other commitment of counsel for both parties, however, it does not appear that these depositions will be completed until the end of October, at the earliest.

4. This deposition testimony is necessary for Defendants to complete their Motion for Summary Judgment briefing. Based on the current schedule, Defendants would be forced to file their summary judgment motion within one week of taking Plaintiff's deposition and without the benefit of having taken the deposition of Plaintiff's expert or defending the deposition of Plaintiff's former supervisor and co-defendant, Ashok Duggal. Defendants will need additional time to complete the depositions that have been noticed in the case, and to receive and review deposition transcripts before being required to file their motion for summary judgment.

5. In addition, and as recently as September 14, 2010, Plaintiff indicated that he would issue subpoenas for the production of documents from two former clients of Plaintiff while he worked at Nalco. Defendants are entitled to review the information obtained from these third parties and would be prejudiced if they are not able to review this information prior to preparing their motion for summary judgment.

6. Moreover, on this same date, Defendant Nalco filed a Constitutional Challenging to the Presumption of Discrimination Contained in Section 148 of Puerto Rico's Law 100.

Specifically Defendant's motion challenges the constitutionality of the burden of proof under Law 100's effect and its resulting presumption of discrimination. Given the differences between Plaintiff's burden of proof under Law 100 and federal law, Defendants respectfully submit that a ruling on this motion is necessary before this case can proceed to trial.

7. In addition, the undersigned counsel of Seyfarth Shaw was only recently retained to assist in the defense of this lawsuit. The undersigned counsel filed their appearance in this case on September 9, 2010. (Docket No. 68). Although counsel has been working diligently to review all case materials, newly appointed counsel will need additional time to prepare its defense of this lawsuit in coordination with local counsel.

8. Given the recent appointment of counsel, the current deposition schedule and the ongoing nature of discovery efforts from both parties, Defendants respectfully request that the Court continue the trial date for 90 days and also continue the dispositive motion deadline and other trial-related deadlines to coordinate with the new trial date.

9. A 90-day continuance of the trial serves the interests of judicial economy and efficiency. In the event the Court grants Defendants' motion, the continuance obviates the need for either party to begin engaging in unnecessary trial preparation.

10. This motion will not prejudice either party and is not being brought for any improper purpose or to cause undue delay.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that the Court continue the current trial date for 90 days and further request that the Court accordingly extend the deadline for dispositive motions to coordinate with the new trial date.

DATED: October 1, 2010

Respectfully submitted,

NALCO CHEMICAL COMPANY AND
ASHOK PAUL DUGGAL

By: /s/ Natascha B. Riesco
One of Their Attorneys

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that he caused a true and correct copy of the foregoing **DEFENDANTS' MOTION TO CONTINUE TRIAL DATE AND TRIAL-RELATED DEADLINES** to be served upon the following attorneys via the CM/ECF filing system on this 1st day of October, 2010.

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_____/s/ Natascha B. Riesco_____